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**JUN 13 2005**

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**DATE:** June 13, 2005  
**TO:** COMMISSIONER FOR PATENTS, U.S. PATENT & TRADEMARK OFFICE  
**FAX NO:** (703) 872-9306 (GENERAL/MAIN FAX LINE)  
**NO. OF PAGES:** Cover + 4

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date indicated below.		<b>APPLICATION NO.</b>	10/769,386
_____ Renee M. Franks _____ Typed/Printed Name  _____ Signature  _____ June 13, 2005 _____ Date		<b>FILING DATE</b>	01/31/2004
		<b>FIRST NAMED INVENTOR</b>	Tehri S. Lee
		<b>ART UNIT</b>	2651
		<b>CONFIRMATION NO.</b>	9439
		<b>EXAMINER</b>	Dismery E. Mercedes
		<b>ATTORNEY DOCKET NO.</b>	K35A1358
<b>TITLE</b>	SERVO WRITING A DISK DRIVE BY SYNCHRONIZING A SERVO WRITE CLOCK IN RESPONSE TO A SYNC MARK RELIABILITY METRIC		

**ATTACHED WITH THIS SUBMISSION:**

1. Transmittal Form (1 page)
2. Fee Transmittal for FY 2005 (1 page)
3. Response to Restriction Requirement (2 pages)

**PLEASE CONFIRM RECEIPT OF THIS TRANSMISSION. IF THERE IS ANY PROBLEM WITH THIS TRANSMISSION, PLEASE CALL RENEE M. FRANKS AT (949) 672-7871.**

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PTO/SB/21 (09-04)

Approved for use through 07/31/2008. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL  
FORM**

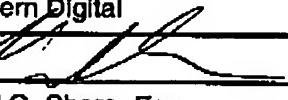
(To be used for all correspondence after initial filing.)

Total Number of Pages in This Submission

Application Number	10/769,386
Filing Date	01/31/2004
First Named Inventor	Tehri S. Lee
Art Unit	2651
Examiner Name	Dismery E. Mercedes
Attorney Docket Number	K35A1358

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		
<input type="checkbox"/> Remarks		

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Western Digital		
Signature			
Printed name	Milad G. Shara, Esq.		
Date	June 13, 2005	Reg. No.	39,367

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Renee M. Franks	Date	June 13, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (12-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

## FEE TRANSMITTAL For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)-0-

Complete if Known	
Application Number	10/769,386
Filing Date	01/31/2004
First Named Inventor	Tehri S. Lee
Examiner Name	Dismery E. Mercedes
Art Unit	2651
Attorney Docket No.	K35A1358

### METHOD OF PAYMENT (check all that apply)

- Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_
- Deposit Account Deposit Account Number: 23-1209 Deposit Account Name: WESTERN DIGITAL
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### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

#### 2. EXCESS CLAIM FEES

##### Fee Description

Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent

Fee (\$)	Small Entity Fee (\$)
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Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent

200	100
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Multiple dependent claims

360	180
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##### Total Claims

- 20 or HP =                  x                  =                   
HP = highest number of total claims paid for, if greater than 20

##### Multiple Dependent Claims

Fee (\$)	Fee Paid (\$)
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##### Indep. Claims

- 3 or HP =                  x                  =                   
HP = highest number of independent claims paid for, if greater than 3

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(g).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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- 100 =                  / 50 =                  (round up to a whole number) x                  =                 

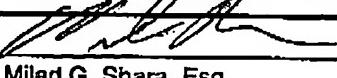
#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other:

Fees Paid (\$)
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#### SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 39,367	Telephone (949) 672-7814
Name (Print/Type)	Milad G. Shara, Esq.	Date June 13, 2005	

This collection of information is required by 37 CFR 1.138. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments and suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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JUN 13 2005

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Appln. of: Tehri S. Lee

Serial No.: 10/769,386

Filed: 1/31/2004

For: SERVO WRITING A DISK DRIVE BY  
SYNCHRONIZING A SERVO WRITE  
CLOCK IN RESPONSE TO A SYNC MARK  
RELIABILITY METRIC

Art Unit: 2651

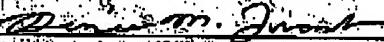
Examiner: Dismery E. Mercedes

Confirmation No.: 9439

Docket No.: K35A1358

**RESPONSE TO RESTRICTION REQUIREMENT**

MAIL STOP AMENDMENT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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June 13, 2005	Renee M. Franks
(Date)	(Name)
 (Signature)	

Dear Sir:

In response to the Restriction Requirement mailed on May 18, 2005 for the above-identified patent application, Applicant elects Claims 1, 3, 6-9, 10, 12, 15 and 16, which read on species a defined by the Examiner. Claims 1, 6-9, 10, 15 and 16 are generic.

The present election is being made with traverse. Applicant submits that it is well established that:

Art Unit 2651  
Serial No. 10/769,386

Reply to Office Action of: May 18, 2005  
Attorney Docket No.: K35A1358

If the search and examination of an entire application can be made without **serious burden**, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

The non-elected species and elected species are directed to methods and disk drives relating to synchronizing a servo write clock in response to a timing recovery measurement, which is generated in response to a detected sync mark and a sync mark reliability metric. A proper search for art related to the elected species would necessarily include the classes and subclasses relevant to a search for the non-elected species. Thus, examination of all the claims would not present "a serious burden" on the Examiner. Applicant therefore respectfully requests that the present restriction requirement be withdrawn.

Respectfully submitted,

Date: June 13, 2005

By:

  
Milad G. Shara, Esq.  
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